

**BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MEETING MINUTES
FOR THURSDAY, AUGUST 20, 2009**

Commissioner Jan Gardner, *President*, called to order a meeting of the Board of County Commissioners of Frederick County, Maryland, ("Board") for Thursday, August 20, 2009, at 9:55 a.m. Present were Commissioners David Gray, *Vice President*; Kai Hagen, Charles Jenkins and John L. Thompson, Jr. Also present were Ron Hart, County Manager and Mary Baker, Recording Secretary.

(Official minutes of the Board of County Commissioners' meetings are kept on file in the County Manager's Office; the meetings are also video recorded. Approved minutes are available on the county's website. To receive a copy of meetings recorded on videotape or DVD, please contact the Board of County Commissioners at 301-600-1100 or visit the county's website at www.co.frederick.md.us).

NOTE: Copies of all staff reports are available in the OnBase system. If you need assistance with the OnBase system, please contact the recording secretary.

PLEDGE OF ALLEGIANCE

The meeting began with the Pledge of Allegiance.

COMMISSIONERS COMMENTS

Commissioner Gardner commented on the press release noting the recycling program was recently expanded.

AGENDA BRIEFING

Staff briefed the Board on the following public hearing items scheduled for:

Tuesday, August 25, 2009, at 8:30 a.m.

- Out of Sequence Water and Sewerage Plan Map Amendment – WS-09-01- Tim Goodfellow, Planning Division

CONSENT AGENDA

BID AWARDS

1. Purchasing Memo #10-31 – Approval of Contract between Montgomery County Schools and Mercer Inc. for Actuarial Consulting Services (Piggyback)
Award to: Mercer Inc.
Award amount: \$250,000
2. Purchasing Memo #10-32 – Bid #10-CP-51, Crestwood Boulevard Roadway Improvements
Award to: C.J. Miller, LLC
Award amount: \$267,038.75

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3. Purchasing Memo #10-33 – Bid #10-CP-69, Citizens Care and Rehabilitation Center and Montevue Home
Award to: Donohoe Construction Company
Award amount: \$28,137,000 and a 9% construction contingency in the amount of \$2,530,000
4. Purchasing Memo #10-34 – Motor Oils, Lubricants, Greases and Related Items (Piggyback)
Award to: Tilley Chemical Company
Award amount: \$85,297
5. Purchasing Memo #10-36 – Various Types of Fire Equipment, Appliances, Nozzles and Hoses (Piggyback)
Award to: Singer Associates
Award amount: \$75,000

BUDGET TRANSFERS

1. #BT-10-20, Maintenance, Management Services Division
2. #BT-10-21, Circuit Court

GRANT

1. FY 2010 Emergency Numbers System Board Grant Application - Chip Jewell, Emergency Management Division

CHANGE ORDERS

1. FY 2009 Patching and Repair of Various Frederick County Roadways, Contract No. C29919, Change Order No. 2 - Chuck Nipe and Tom Meunier, Public Works Division
2. Construction Change Order No. 15 (New Design Water Treatment Plant Expansion, Contract 2) and Budget Transfer - Kevin Demosky, Utilities and Solid Waste Management Division
3. Construction Change Order No. 17 (New Design Water Treatment Plant Expansion, Contract 2) - Kevin Demosky, Utilities and Solid Waste Management Division
4. Construction Change Order No. 18 (New Design Water Treatment Plant Expansion, Contract 2) - Kevin Demosky, Utilities and Solid Waste Management

Commissioner Thompson requested a separate vote on Purchasing Memo #10-33.

Commissioner Gray moved approval of the balance of the consent agenda excluding Purchasing Memo #10-33. Commissioner Hagen seconded the motion that passed 5-0.

Commissioner Gardner requested Purchasing Memo #10-32 be pulled from the consent

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agenda as she wanted more information regarding the notice to proceed and timing of completion.

Commissioner Hagen moved approval of Purchasing Memo #10-33. Commissioner Gray seconded the motion that passed 4-1 with Commissioner Thompson opposed.

ADMINISTRATIVE BUSINESS

Approval of Board of County Commissioners' Meeting Minutes

Commissioner Gray moved approval of the following minutes as presented:

- ◆ Tuesday, June 23, 2009
- ◆ Tuesday, June 23, 2009 (Afternoon)
- ◆ Thursday, June 25, 2009
- ◆ Monday, July 6, 2009
- ◆ Tuesday, July 7, 2009
- ◆ Form of Statement to Close Meeting on Tuesday, July 7, 2009
- ◆ Two (2) Closed Session Minutes for Tuesday, July 7, 2009
- ◆ Form of Statement for Open Meeting Following Closed Session on Tuesday, July 7, 2009
- ◆ Tuesday, July 7, 2009 (Interviews)
- ◆ Tuesday, July 7, 2009 (Evening)
- ◆ Thursday, July 9, 2009
- ◆ Two (2) Forms of Statement to Close Meeting on Thursday, July 9, 2009,
- ◆ Two (2) Closed Session Minutes for Thursday, July 9, 2009
- ◆ Two (2) Forms of Statement for Open Meeting Following Closed Session on Thursday, July 9 2009
- ◆ Tuesday, July 14, 2009
- ◆ Tuesday, July 14, 2009 (Evening)
- ◆ Thursday, July 16, 2009
- ◆ Two (2) Forms of Statement to Close Meeting on Thursday, July 16, 2009,
- ◆ Two (2) Closed Session Minutes for Thursday, July 16, 2009
- ◆ Two (2) Forms of Statement for Open Meeting Following Closed Session on Thursday, July 16, 2009
- ◆ Thursday, July 16, 2009 (Afternoon)
- ◆ Form of Statement to Close Meeting on Thursday, July 16, 2009,
- ◆ Closed Session Minutes for Thursday, July 16, 2009
- ◆ Form of Statement for Open Meeting Following Closed Session on Thursday, July 16, 2009

Commissioner Hagen seconded the motion that passed 5-0.

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Bid Award - Purchasing Memo #10-32 – Bid #10-CP-51, Crestwood Boulevard – Hal Good, Finance Division

Mr. Good presented the purchasing memo, noting the notice to proceed meeting was being held at 11:00 a.m. this morning.

Bid Award – Purchasing Memo #10-28, Contract for Child Psychiatrist for Mental Health – Hal Good, Finance Division

Mr. Good presented the purchasing memo.

Commissioner Gray moved approval of Purchasing Memo #10-28 as presented. Commissioner Hagen seconded the motion that passed 3-2 with Commissioners Jenkins and Thompson opposed.

Board of County Commissioners Easement to Friends Meeting School - Beth Ramacciotti, Utilities and Solid Waste Management Division (DUSWM)

Mr. Mike Marschner and Ms. Ramacciotti, DUSWM, presented the easement.

Commissioner Gray moved approval of the easement as presented. Commissioner Hagen seconded the motion that passed 4-1 with Commissioner Thompson opposed.

FY 2009 "On Behalf of" Bond Program - Jenny Short, Citizens Services Division

Margie Lance, Citizens Services Division, presented the bond program information which would transfer the bond in the amount of \$7,097,424, to the Maryland Department of Housing and Community Development for the On Behalf Of Program for use in the Community Development Administration Maryland Mortgage Program.

Commissioner Hagen moved approval of the of the bond transfer as presented. Commissioner Gray seconded the motion.

Commissioner Thompson amended the motion to have the county's portion of the funds be applied to the school construction program. This amendment failed due to lack of a second.

The motion made by Commissioner Hagen, seconded by Commissioner Gray, passed 4-1 with Commissioner Thompson opposed.

New User Agreement between Head Start and City Housing Authority at the Bernard W. Brown Community Center - Wayne Roach, Management Services Division

Mr. Roach and Ms. Pat Rosensteel, Citizens Services Division, presented the agreement which would house two head start classrooms in the community center.

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Commissioner Jenkins moved approval of the agreement noting the change to a seven-year lease term with the option to renew for an additional seven years. Commissioner Hagen seconded the motion that passed 5-0.

Winchester Hall Parking Lot Lease Agreement with David and Diana Schrodel - Austin Abraham, Management Services Division

Mr. Abraham presented the lease agreement recommending the Board approve the rental of seven parking spaces at a rate of \$70.00 per space, per month for five years. The right-of-refusal-to-purchase clause had been deleted from this agreement.

Commissioner Gray moved approval of the lease agreement as presented. Commissioner Gardner seconded the motion that passed 5-0.

North Montevue Campus Site Plan Enforcement Agreement - Mark DiLandro, Public Works Division

Mr. DiLandro presented the agreement which was to be in place during the project development and prior to the building permit being issued.

Commissioner Gray moved approval of the agreement as presented. Commissioner Hagen seconded the motion that passed 5-0.

Proposed Forest Resource Ordinance (FRO) Text Amendment - Mike Wilkins, Permitting and Development Review Division

Mr. Wilkins presented the proposed FRO text amendment (Section 1-21-22) in accordance with State Bill 666, titled, "No Net Loss of Forestry Policy-Forest Conservation Act," that was passed during the 2009 Legislative Session to become effective October 1, 2009.

Staff noted the Maryland Department of Natural Resources (DNR) required all jurisdictions to modify their FRO conservation regulations by October 1, 2009.

Commissioner Thompson moved to initiate the amendment as presented and authorize and direct staff to seek an extension beyond the October 1, 2009, deadline; send a draft to DNR for comments; send a draft to each of the municipalities including the date of the public hearing; and send a draft to the Farm Bureau noting this amendment and the due date was mandated by the state. Commissioner Hagen seconded the motion that passed 4-1 with Commissioner Jenkins opposed.

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Recommendation of a Preferred Alternative for the I-270 Multi-modal Study - John Thomas, Planning Division

Mr. Jim Gugel and Mr. Thomas, Planning Division; Russ Anderson, State Highway Administration; and Rick Kiegel, Maryland Transit Administration, presented the findings of the study including a variety of options to mitigate the traffic issues.

Commissioner Thompson moved approval of alternate “7B” – Enhanced Master Plan with Bus Rapid Transit (BRT) /2 Express Toll Lanes (ETL), without the High Occupancy Toll (HOT)Lanes. Commissioner Jenkins seconded the motion.

Commissioner Gray moved to amend the motion to include HOT lanes versus the ETL and include the recommendations as presented in staff’s slide:

- Highway Alternative “7B” with HOT;
- Corridor Cities Transitway (CCT): BRT + Premium Bus + Parallel Shared Use Path;
- Additional Direct Access Options (Ramps and Park and Rides);
- Support High Occupancy Vehicle Lanes, Transportation System Management/Travel Demand Management and CCT (BRT); and
- Minimize impacts through maximum mitigation.

Commissioner Hagen seconded the motion that passed 3-2 with Commissioners Jenkins and Thompson opposed.

The motion made by Commissioner Thompson, seconded by Commissioner Jenkins, passed 5-0.

COMMISSIONERS COMMENTS

Commissioner Jenkins commented on the article in *The Frederick News-Post* regarding his beliefs surrounding global warming issues.

PUBLIC COMMENTS

- Donald Lee

QUESTIONS – PRESS

None.

CLOSES SESSION

Commissioner Gray moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a)(3) To consider the acquisition of real

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property for a public purpose and matters directly related thereto. Commissioner Hagen seconded the motion that passed 5-0.

ADJOURN

The meeting adjourned at 1:45 p.m.

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF THURSDAY, AUGUST 20, 2009**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(3) To consider the acquisition of real property for a public purpose and matters directly related thereto.

Motion:

Commissioner Gray moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a)(3) To consider the acquisition of real property for a public purpose and matters directly related thereto. Commissioner Hagen seconded the motion that passed 5-0.

Topic to be Discussed:

To consider the acquisition of an interest in real property for purposes of agricultural preservation.

Mary E. Baker
Recording Secretary

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON THURSDAY, AUGUST 20, 2009,
FOLLOWING THE CLOSED MEETING OF THURSDAY, AUGUST 20, 2009**

STATUTORY AUTHORITY TO CLOSE SESSION

State Government Article §10-508(a):

(3) To consider the acquisition of real property for a public purpose and matters directly related thereto.

Motion:

Commissioner Gray moved to proceed into closed session in accordance with Maryland Annotated Code State Government Article § 10-508(a) (3) To consider the acquisition of real property for a public purpose and matters directly related thereto. Commissioner Hagen seconded the motion that passed 5-0.

Others in Attendance:

R. Hart, B. Stanton, W. Kearney, T. Blaser, E. Soter, R. Santangelo and M. Baker

Topic Discussed:

To consider the acquisition of an interest in real property for purposes of agricultural preservation.

Action Taken:

The Board approved staff's recommendation as presented.

Mary E. Baker
Recording Secretary